

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-9  
FACILITY OPERATING REQUIREMENTS**

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**1240-6-9-.01 DAYS AND HOURS OF OPERATION.**

- (1) It shall be the responsibility of the manager to comply with the terms of the Occupancy Permit regarding the days and hours designated for the facility to be open for business. It is not necessary for the manager to be present during all of the hours which the facility is open; however, it is required that the manager be present at least five (5) days and a minimum of thirty (30) hours each week. Exceptions to this provision must be approved in writing by the Director of the Tennessee Business Enterprises program. In the absence of the manager, it is essential that a qualified employee is on duty to ensure that all customers' needs are being met and that the facility is otherwise being operated in compliance with all rules and regulations which govern its operation.
- (2) During periods when the manager is absent from the facility as a result of advanced training offered by the agency, Upward Mobility seminars, annual vacations or short-term illnesses, the manager shall designate an employee to assume the responsibilities of the business during these periods. The manager shall advise the agency of the person who has been selected to operate the facility.
  - (a) If it is anticipated or if the manager is absent from the facility for more than thirty (30) consecutive days as a result of an illness or recently incurred disability, the manager must apply for medical sick leave and provide information as required by the agency regarding the illness or disability.
  - (b) In the event the illness and/or disability is projected to be of a prolonged nature, the agency shall grant up to a maximum of two (2) years sick leave. The maximum sick leave of two (2) years is a total accrual during the licensed manager's tenure in the program, excluding minor illnesses which do not exceed forty-five days. After the agency has granted sick leave, and if during this period of time, the manager wants to be relieved of the responsibilities of the facility and the manager's physician provides to the agency medical documentation that the manager's illness and/or disability is so severe that he/she will be precluded from returning to the facility, the agency shall relieve the manager of the responsibilities and upon request, place him/her on medical transfer status, at which time the agency shall declare the facility to be ready to be announced for bid. Under these circumstances, the manager's transfer eligibility shall be valid for a period of two (2) years.
- (3) In the event of unusual and unique circumstances, the terms and conditions of the occupancy permit may be changed but not before consultation with the manager for purposes of soliciting his/her requests and desires. Once the changes have been made, the revised document shall be provided to the manager.

**Authority:** TCA §§4-5-201 et seq., 14-14-404 (c), 71-1-105(12), 71-4-604(c); 34 CFR 395. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June

(Rule 1240-6-9-.01, continued)

24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.01. Repeal and new rule filed April 27, 1998; effective August 28, 1998.

#### **1240-6-9-.02 PERSONAL APPEARANCE, HYGIENE AND FACILITY CLEANLINESS.**

- (1) It shall be the obligation and responsibility of the manager to, at all times, project the image of personal cleanliness, being adequately groomed and dressed appropriately and in accordance with the environment of the facility location, any terms of the permit or contract and/or any other dress code imposed by property management on its employees. The manager must assure that all employees adhere to the same standard. A violation of this rule by the employee shall be treated as a violation committed by the manager.
- (2) Irrespective of the circumstances, the facility and all of its equipment must be kept clean and sanitary at all times. It is recognized that the manager and/or his/her employees must have time to clean up after meal times and breaks; however, this process must begin as soon as practical after the customers have left. Sanitation practice must be exercised routinely, even in those areas which are not normally visible to the customers or property managing officials.
  - (a) In no event shall the manager and/or his/her employees ever close and leave the facility at the end of the day without the facility and all of its equipment being thoroughly cleaned and ready to open for business at the beginning of the next regularly scheduled day.
  - (b) All Health Department rules and regulations shall be observed in every respect, including but not limited to storage of staple goods, storage of cleaning products and other chemicals, refrigeration temperatures, cooking and holding temperatures if applicable, and sanitation practices.

**Authority:** TCA §§4-5-201 et seq., 14-14-404(c), 71-1-105(12), 71-4-604(c); 34 CFR 395, 395.7. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.02). Amendment filed March 10, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998.

#### **1240-6-9-.03 FACILITY MERCHANDISE.**

- (1) The merchandise available for sale in a vending facility shall generally be in compliance with the terms and conditions of the Occupancy Permit Agreement. Substantial deviations from this approved merchandise shall not be made by the manager without first seeking consent of the agency and property management regarding the anticipated changes in the goods to be sold. The merchandise available for sale may be prepared on or off site, depending upon the facility equipment and the Health Department rules to be observed. The merchandise may be sold manually and/or dispensed through the use of vending machines.
- (2) It is the obligation and responsibility of the manager to have the initial level of merchandise in the facility at all times and if necessary to meet customers' demands, the inventory shall be increased by the manager in an amount sufficient to address the identified needs. It is required that the manager have sufficient quantity and variety of merchandise in the facility in order to satisfy the intent of this section.
- (3) If the TBE Consultant suspects that the merchandise inventory is below the initial level, a complete inventory may be taken by the TBE Consultant (except as otherwise provided in 1240-6-5-.03(2)) after providing a written notice to the manager of the intent to do so twenty-four (24) hours in advance of the inventory.

(Rule 1240-6-9-.03, continued)

- (4) Annual Inventory.
  - (a) At the beginning of each calendar year, the TBE Consultant and the manager shall jointly conduct an inventory of all merchandise and supplies in the facility. This process shall be completed before February 15 of each year. The manager shall retain a copy of the inventory record and the TBE Consultant shall retain a copy for the agency's files.
  - (b) In the event that a financial analysis is deemed to be appropriate at some subsequent time prior to the next scheduled inventory, the previous record referred to above shall be used as a beginning point, so that the collection of other data will be meaningful when all of it is assembled for final review.
- (5) The manager shall determine the pricing of the merchandise to be sold in the facility provided that it is reasonably compatible with that of the vicinity competition. If two (2) or more managers are located in the same building or on the same property, prices shall be consistent for similar merchandise. In the event that a manager fails to comply with this policy or refuses to recognize its legitimacy, the TBE Consultant shall intervene and resolve the dispute to achieve consistency.

**Authority:** TCA §§4-5-201 et seq., 71-1-105(12), 71-4-603, 71-4-604(c), 14-628, 14-14-406(c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998.

**1240-6-9-.04 PUBLIC RELATIONS WITH CUSTOMERS, SUPPLIERS AND PROPERTY MANAGING OFFICIALS.**

- (1) In addition to providing a high quality food service and as a means of promoting sales, it is incumbent upon the manager and his/her employees to create a pleasant and wholesome atmosphere in the facility for the customers. It is required that patrons of the business be served promptly, treated cheerfully, courteously and to otherwise be accommodated, within reasonable limits, regarding requests normally expected in any food service operation. This does not include extending credit to customers, although the manager may do so if he/she wishes, but it must be realized that losses as a result thereof are those of the manager and the agency assumes no responsibility.
- (2) Purchase Of Merchandise And Supplies.
  - (a) The manager is free to negotiate with any purveyors of merchandise and/or supplies. Under no circumstances may a manager purchase merchandise and/or supplies from a corporation, partnership, or other legal entities if the manager and/or an immediate family member has an interest of any type in such organizations.
  - (b) Normally managers are required to purchase merchandise and supplies from recognized wholesalers; however, an exception to this provision shall be made which will allow managers to purchase from retailers when it is financially advantageous to do so or to purchase from other managers when it is convenient, provided that in no event shall the manager reflect a higher merchandise cost than he/she was actually charged.
  - (c) This exception shall be granted in writing by the Director of the Tennessee Business Enterprises program. Irrespective of the purveyor, the manager shall pay for the merchandise pursuant to the terms which are arranged with the supplier. Failure to do so shall constitute a violation of this subsection and result in a ten (10) days notice to the manager to liquidate the indebtedness.
- (3) The manager shall comply with all requests of property managing officials provided that the requests are within the ability of the manager to meet and not in conflict with these rules and regulations or the

(Rule 1240-6-9-.04, continued)

provisions of the Occupancy Permit Agreement. The manager is free to accommodate the property managing officials in other areas if he/she chooses to do so in order to promote good public relations. If differences arise between the manager and property managing officials, the manager shall immediately contact his/her TBE Consultant so that a resolution might be quickly achieved.

(4) Complaints Regarding Managers.

- (a) In the event that the agency receives a complaint regarding the manager, his/her employees and/or the operation about which the manager has no knowledge, the TBE Consultant will immediately investigate to determine the validity of the complaint and document the findings. If the complaint is found to be valid, the TBE Consultant and the manager shall immediately formulate a plan of action to address the concern of the complainant.
- (b) If the complaint is in writing, it shall be immediately given to the manager. If it is validated as correct, the manager shall have thirty (30) days to file a response with the agency. Both the complaint and the response shall be placed in the permanent record for a period of one (1) year, after which time, it will automatically be purged from the record.

**Authority:** TCA §§4-5-201 et seq., 14-14-404(c), 71-1-105(12), 71-4-604(c), 14-628, 14-14-404(c); 34 CFR 395, 395.3(ii)(iii). **Administrative History:** Original rule filed August 30, 1978; effective November 9, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed May 25, 1983; effective January 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 13, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998.

**1240-6-9-.05 INSURANCE COVERAGE.**

Each permanently assigned or temporarily assigned manager shall be required to obtain and maintain public liability and products liability insurance coverages with limits as specified by the permit and naming property management as co-insured. In addition, the manager shall be required to obtain workman's compensation insurance if required by state law as a consequence of the number of employees. All expenses for insurance coverages are deductible as a business expense to the facility. Each manager is required to provide the agency with Certificates of Insurance, validating that the protection is in force.

**Authority:** TCA §§14-14-404(c), 71-1-405(12), 71-4-604(c), and CFR 395. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.05.)

**1240-6-9-.06 TAXES, PERMITS AND LICENSES.**

- (1) The agency shall purchase or obtain all initial licenses, permits, certificates, and decals for new locations. Thereafter it is purchased by the manager as an expense to the facility, except that gross receipts decals shall be furnished by the agency upon the installation of new or used vending machines, including vending machines which are provided to replace existing equipment.
- (2) The manager shall be responsible for paying all applicable state, federal, and local taxes in a timely manner.

**Authority:** TCA §14-14-404(c); 34 CFR 395. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.06.)

**1240-6-9-.07 RECORD KEEPING AND REPORTING.**

- (1) It shall be the responsibility of each manager to establish, maintain and retain financial, payroll, personnel, and operational records as required by law or by program policies which have been adopted in accordance with Chapter 1240-6-13. The vending facility manager is required to maintain all such records for a minimum of four (4) years. In addition, managers are expected to comply with record retention requirements of other governmental bodies.
- (2) Reports required by program policies shall be filed promptly with the agency. The reports and supporting documentation will be periodically reviewed by the agency and will be subject to examination, analysis, and/or audit at any time by Fiscal Services or Internal Audit staff. All examinations, analysis, and audits will be conducted in accordance with generally accepted auditing procedures. This provision shall not be construed to restrict any audit required by other entities of government and authorized by federal or state laws.
- (3) Each vending facility manager must immediately report to the agency, in writing, any findings resulting from a governmental audit, either state or federal, or any citation for violation of any health regulations or any state law related to the operation of the vending facility.
- (4) Any bankruptcy action filed by the manager which directly or indirectly affects the agency or creditors of the facility must be reported to the agency, in writing, within five days of filing.

**Authority:** TCA §§4-5-201 et seq., 14-14-404(c), 71-1-105(12), and 71-4-604(c); 34 CFR 395.7(c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.07.) Amendment filed March 10, 1989; effective April 24, 1989.